

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

CHARLES SAMUEL JOHNSON, JR.

PLAINTIFF

v.

Civil No. 4:19-cv-04136

SERGEANT GRIFFIE, ET AL

DEFENDANTS

ORDER

Currently pending before the Court is Plaintiff's Motion to Compel. (ECF No. 32). The Defendants have responded to Plaintiff's Motion. (ECF No. 35).

In the Motion, Plaintiff seeks written discovery from two non-parties, Officer Labit and Officer Jones. (ECF No. 32). There are no provision in the Federal Rules of Civil Procedure for written discovery to a non-party. However, the Court will treat Plaintiff's Motion as a motion for leave to take a deposition by written questions under Rule 31 of the Federal Rules of Civil Procedure.

There are procedural and logistical difficulties inherent in taking depositions upon written questions pursuant to Fed. R. Civ. P. 31. For example, the depositions must be taken before an officer – a court reporter - who is to place the witnesses under oath, record the witnesses' responses, either stenographically, by audiotape or videotape, make the transcript or recording available to the witnesses for review if requested, and then certify to Plaintiff that the witnesses were duly sworn and that each deposition is a true record of the testimony given by the witness.

*See Rule 31(b); Rule 30 (c), (e) and (f); 7 James Wm. Moore, et al., *Moore's Federal Practice*, § 31.12 (3d ed. 2009).*

A *pro se* plaintiff does not have the right to have discovery expenses paid by the court. *See Badman v. Stark*, 139 F.R.D. 601, 605 (M.D. Pa. 1991). Nor does a *pro se* plaintiff have the right

to require the defendants to pay the costs of discovery. *See Doe v. United States*, 112 F.R.D. 183, 184 (S.D.N.Y. 1986). Consequently, Plaintiff would be responsible for the costs associated with depositions on written questions. *Stockdale v. Stockdale*, 2009 WL 5103265, at *2 (E.D. Mo. Dec. 17, 2008). Plaintiff has not indicated that he is willing or able to pay those costs.

Accordingly, Plaintiff's Motion to Compel (ECF No. 32) is **DENIED**.

IT IS SO ORDERED this 15th day of June 2020.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
UNITED STATES MAGISTRATE